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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,007	03/05/2002	Masashi Kanai	4468-032	4402

7590 02/23/2006
LOWE HAUPTMAN GILMAN & BERNER, LLP
Suite 310
1700 Diagonal Road
Alexandria, VA 22314

EXAMINER

BAKER, CHARLOTTE M

ART UNIT PAPER NUMBER

2626

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/090,007	Applicant(s) KANAI, MASASHI	
	Examiner Charlotte M. Baker	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/02/02, 11/02/04</u> . | 6) <input type="checkbox"/> Other: ____. |

IDS Cont. 12/29/04

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-12 of copending Application No. 10/386,433 (hereinafter referred to as '433). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Regarding claim 1: Claim 1 of 10/090,007 (hereinafter referred to as '007) corresponds to claims 1, 2 and 4 of '433.

Regarding claim 2: Claim 2 of '007 corresponds to claim 3 of '433.

Regarding claim 4: Claims 4 of '007 corresponds to claim 4 of '433.

Regarding claim 5: Claim 5 of '007 corresponds to claim 5 of '433.

Regarding claim 6: Claim 6 of '007 corresponds to claim 6 of '433.

Regarding claim 7: Claim 7 of '007 corresponds to claim 7 of '433.

Regarding claim 8: Claim 8 of '007 corresponds to claim 8 of '433.

Regarding claim 9: Claim 9 of '007 corresponds to claim 9 of '433.

Regarding claim 10: Claim 10 of '007 corresponds to claim 11 of '433.

Regarding claim 11: Claim 11 of '007 corresponds to claim 12 of '433.

These limitations are obvious variations of its respective claim.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Specification

3. The disclosure is objected to because of the following informalities: remove **all** references to claims and claim numbers from the "Summary of Invention" (for example, p. 2, par. 7, "described in claim 1").

Appropriate correction is required.

4. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

5. The abstract of the disclosure is objected to because the Abstract must be written in single paragraph form. Correction is required. See MPEP § 608.01(b).

Claim Objections

6. The following is a quotation of 37 C.F.R. 1.75 (d)(1):

The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

7. Claims 2-7 and 9 are objected to because of the following informalities:

In claim 2: “said first color correction means”, “said three-dimensional color correction table”, “said characteristic value” lack antecedent basis.

In claim 3: “said one-dimensional color correction table”, “said second color correction means”, “the color temperature” lack antecedent basis.

In claim 4: “said one-dimensional color correction table”, “said second color correction means” lack antecedent basis.

In claim 5: : “said one-dimensional color correction table”, “said second color correction means” lack antecedent basis.

In claim 6: “said one-dimensional color correction table”, “said second color correction means” lack antecedent basis.

In claim 7: “said characteristic value” lacks antecedent basis.

In claim 9: “the rewrite”, “said rewrite”, “said characteristic value” lack antecedent basis.

Claim Rejections - 35 USC § 101

8. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The computer program claimed is merely a set of instructions per se. Since the computer program is merely a set of instructions not embodied on a computer readable medium to realize the computer program functionality, the claimed subject matter is non-statutory. See MPEP § 2106 IV.B.1.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 3-8 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsuda (EP1178672A2).

The applied reference has a common assignee (Seiko Epson Corporation) with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1: Matsuda discloses a first color correction means (Fig. 3, 3D-LUT storage section 403) which performs a desired color correction (par. 56) for said inputted image data (Fig. 3, input signal processing section 401) on the basis of characteristic value of said image display device (Fig. 1, projector 20, par. 60) and by reference to a three-dimensional correction table (Fig. 3, 3D-LUT storage section 403), said three-dimensional color correction table (Fig. 3,

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3D-LUT storage section 403) being for matching color characteristics of said image display device (Fig. 1, projector 20, par. 60) to reference color characteristics (par. 60, use of 3D- LUT 403); and a second color correction means (Fig. 3, 1D-LUT storage section 404) which performs a desired color correction for said inputted image data (par. 57 & 59) by reference to a one-dimensional color correction table (Fig. 3, 1D-LUT storage section 404), said one-dimensional color correction table (Fig. 3, 1D-LUT storage section 404) being for making a color correction according to an external environment (par. 62).

Regarding claim 3: Matsuda satisfies all the elements of claim 1. Matsuda further discloses wherein said one-dimensional color correction table (Fig. 3, 1D-LUT storage section 404) used in said second color correction means (Fig. 3, 1D-LUT storage section 404) is for adjusting the color temperature (Fig. 3, target color temperature management 472, par. 74).

Regarding claim 4: Matsuda satisfies all the elements of claim 1. Matsuda further discloses wherein said one-dimensional correction table (Fig. 3, 1D-LUT storage section 404) used in said second color correction means (Fig. 3, 1D-LUT storage section 404) is for correction responsive to change in brightness of an external illumination (par. 62).

Regarding claim 5: Matsuda satisfies all the elements of claim 1. Matsuda further discloses wherein said one-dimensional color correction table (Fig. 3, 1D-LUT storage section 404) used in said second correction means (Fig. 3, 1D-LUT storage section 404) is for correction responsive to a change in color of a projection plane (environmental condition, par. 62 and 64).

Regarding claim 6: Matsuda satisfies all the elements of claim 1. Matsuda further discloses wherein said one-dimensional color correction table (Fig. 3, 1D-LUT storage section 404) used

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in said second color correction means (Fig. 3, 1D-LUT storage section 404) is for correction responsive to change in color of an external illumination (par. 62).

Regarding claim 7: Matsuda satisfies all the elements of claim 1. Matsuda further discloses means for inputting said characteristic value (Fig. 3, colored-light sensor 417, par. 64).

Regarding claim 8: Matsuda satisfies all the elements of claim 1. Matsuda further discloses which is a projector (Fig. 1, projector 20).

Regarding claim 10: The structural elements of apparatus claim 1 perform all of the steps of method claim 10. Thus, claim 10 is rejected for the same reasons discussed in the rejection of claim 1.

Regarding claim 11: Arguments analogous to those stated in the rejection of claim 1 are applicable. A recording medium that stores an image processing program is inherently taught as evidenced by color control processor 420 and various memories stored within.

Allowable Subject Matter

10. Claims 2 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if the claim objections and double patenting rejection are overcome, and rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlotte M. Baker whose telephone number is 571-272-7459. The examiner can normally be reached on Monday-Friday 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A. Williams can be reached on 571-272-7471. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CMB


MARK WALLERSON
PRIMARY EXAMINER